1948.

File No. O. Smoke Legal Department-Nuisances 46

A **BRANCH**

Subject:— O. Smoke Nuisance

P.J./V.

Prosecutions under the Bombay Smoke Nuisance Act 1912

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Office of the R.L.A.

The Bombay Smoke Nuisances Act, 1912.

Whether 'owner' includes a lessee.

Under section 9(1) of the Bombay Smoke Nuisances Act, 1912, the owner of a furnace is bound to comply with rule 26 of the Rules under the Smoke Nuisances Act. "Owner" as defined in section 3(5) includes a lessee. Consequently the lessee in the present case can be called upon to comply with rule 26 failing which he canbe prosecuted. The fact that under the terms of the lease he is not allowed to make any structural alteration would not absolve him from the liability to comply with rule 26. Whether or not he can claim to be discharged from the agreement of lease by reason of his being required to comply with rule 26 is a matter for him andhis lessor to decide.

Sd/- P.M.L.
Remembrancer of Legal Affairs.

U.R. to P.& S.D., No. 247, dated the 9th January 1940.

SVV
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4 c.